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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,873	02/01/2001	Joachim Zimmer	1370	8037

7590

07/07/2003

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Huntington, NY 11743

EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/700,873

Applicant(s)

ZIMMER, JOACHIM

Examiner

Gary K Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## DETAILED ACTION

### *Specification*

The disclosure is objected to because of the following informalities: Reference to the claims from the written description appears improper. The written description should not look to the claims to define the invention. For example, see page 1, line 3.

Appropriate correction is required.

The abstract of the disclosure is objected to because it should be in single paragraph form. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, reference to "its housing" appears improper since no housing has been set forth.

In claim 3, line 3, use of "a retaining element" appears duplicative since a pivotable part has been set forth in claim 1 and such pivotable part appears to be the retaining element.

In claim 7, line 3, there is no antecedent basis for "the upper region".

In claim 9, line 1, it is improper for claim 9 to depend from itself. The claim has been treated as though it depends from claim 6 in which the opening 34 has been set forth. In line 3, there is no antecedent basis for "the opening".

In claim 13, line 3, there is no antecedent basis for "the outer inner wall".

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 7, 8, 10, 11, 13 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Baumgarten et al '980.

The patent to Baumgarten discloses the invention as is claimed. Note figures 4 and 5 wherein the various claimed conduits can be clearly seen. Note retaining part or wiper arm (43) into which the spray nozzle is disposed.

With respect to claim 2, note housing (52) into which nozzle body (11) is clipped.

With respect to claim 3, note stub (51) of the nozzle body (11). Said stub surrounds the connecting conduit as is claimed.

With respect to claim 8, note that as the arm move, the openings of the nozzles will be in various orientations, some of them vertical.

With respect to claim 10, note balls (14) fit into ball seats.

With respect to claim 11, members (22) are considered to be nozzle caps.

Claims 1, 4, 5, 7, 8 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Keen et al '424.

The patent to Keen discloses the invention as is claimed. Note figure 2 wherein the various claimed conduits can be clearly seen. Note that Keen discloses attaching of the nozzle to a wiper arm.

With respect to claim 4, note cap (34).

With respect to claim 5, note that the connection piece does not have to make up the windshield wiper.

With respect to claim 8, note that as the arm move, the openings of the nozzles will be in various orientations, some of them vertical.

With respect to claim 21, note heating wires (86).

*Allowable Subject Matter*

Claims 6, 9 (assuming it depends from claim 6), 12 and 14-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 703-308-1270. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to be 'GK Graham', written in a cursive style.

Gary K Graham  
Primary Examiner  
Art Unit 1744

GKG  
June 30, 2003